SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1883.

No. 321.

THE UNITED STATES, PLAINTIFFS IN ERROR,

vs.

HENRY BRYANT AND J. V. WEEKLEY, OTHERWISE CALLED BRYANT & WEEKLEY.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF ALABAMA.

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1 *Complaint.*

Circuit court of the United States for the southern district of Alabama.

THE UNITED STATES, PLAINTIFF,
vs.
HENRY BRYANT AND J. V. WEEKLEY, DEFENDANTS. } No. 627.

The plaintiffs claim of the defendants, Henry Bryant and J. V. Weekley, partners, doing business under the firm-name of Bryant & Weekley, two thousand seven hundred and forty pine logs, bark-marked thus: H H; and stamped thus: P C; and afterwards thus: 5. Said logs would average about 32 feet in length and about 16 inches in diameter, and are of the value of one dollar and twenty-five cents each, and were cut during the years 1877, '78, '79 from the N. ½ of Section 10 and SE. ¼ and SE. ¼ of SW. ¼ of Section 3, Township 5 S., R. 5 E, and from N. ½ of Section 28, Township 4 S., R. 4 E., and from Section 17, Township 5 S., R. 5 E., and from Section 17, Township 4 S., R. 4 E., and from the E. ½ and NW. ¼ of SE. ¼, the W. ½, and SE. ¼ of SW. ¼, and SW. ¼ of
2 NW. ¼ of Section 21, and the E. ½ and SW. ¼ of Section 22, and the W. ½ and NE. ¼ of Section 28, and the E. ½ of NE. ¼, and the SE. ¼, and the NW. ¼, and the SE. ¼ of the SW. ¼ of Section 29, Township 5 S., R. 5 E., in the county of Baldwin, in said southern district of Alabama, with the use thereof during the detention.

GEORGE M. DUSKIN,
U. S. Att'y So. Dist., Ala.

Filing.

Filed August 8th, 1879.

N. W. T., *Clerk.*

3 *Affidavit J. J. Gainey, sp'c'l agt. Int. Dep't.*

UNITED STATES OF AMERICA,
Southern District of Alabama, ss:

On this the 8th day of August, A. D. 1879, before me, Henry S. Skaats, a commissioner of the circuit court of said district, personally appeared J. J. Gainey, special agent General Land Office, who, being first sworn, deposes and says that, to the best of his knowledge, information, and belief, the property sued for in the case of the United States against Henry Bryant and J. V. Weekley for the recovery of two thousand seven hundred and forty pine logs, of the value of one dollar and twenty-five cents each, is the property of the plaintiffs, the said United States.

J. J. GAINEY.

Sworn and subscribed before me this 8th day of August, A. D. 1879.

HENRY SKAATS,
U. S. Commissioner Sou. Dist. of Ala.

Filing.

Filed August 8th, 1879.

N. W. TRIMBLE, *Clerk.*

4 *Order for seizure.*

UNITED STATES OF AMERICA:

Circuit court of the United States for the southern district of Alabama.

J. J. Gainey, special agent to the Commissioner of the General Land Office, having made affidavit, to the best of his knowledge, information, and belief, that the property sued for in the annexed complaint, namely, two thousand seven hundred and forty pine logs or sticks of timber belonging to the plaintiffs in said suit, the marshal of the United States for the southern district of Alabama is required to take the property mentioned in the said complaint into his possession unless the defendants give bond, payable to the said plaintiffs, with sufficient surety in double the amount of the value of the property, with condition that if the defendant is cast in the suit he will within thirty days thereafter deliver the property to the plaintiffs, and pay all costs and damages which may accrue from the detention thereof.

N. W. TRIMBLE,
Clerk U. S. Circuit Court Sou. Dist. Ala.

5 *Summons.*

UNITED STATES OF AMERICA:

Circuit court of the United States for the southern district of Alabama.

The President of the United States to the marshal of said district, greeting:

You are hereby commanded to summon Henry Bryant and J. V. Weekley, partners, under the firm-name of Bryant & Weekley, who are citizens of the State of Alabama, to appear before the circuit court aforesaid, at the place of holding said court, at Mobile, on the 4th Monday of December next, then and there to answer the complaint of The United States of America, and have you then and there this writ.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, and the seal of said circuit court,
[SEAL.] this 9th day of August, in the year of our Lord one thousand eight hundred and seventy-nine.

6 Issued the 9th day of August, in the year of our Lord one thousand eight hundred and seventy-nine.

N. W. TRIMBLE,
Clerk C. C. Southern District of Alabama.

Marshal's return.

Received in office this 20th day of August, 1879.

GEORGE TURNER,
U. S. Marshal.

Executed by serving copy of the within summons and complaint and seizure on the defendant, Henry Bryant, and by seizing 858 logs marked

H. H. and stamped P. C. & 5, claimed by Bryant & Weekley—"J. V. Weekley not found in my district." And about 1,500 more which are scattered along the river Styx & Hollenger Creek for about 40 miles. This the 10th day of September, 1879.

GEORGE TURNER,
U. S. Marshal,
By C. B. JOHNSTON, *Deputy.*

Filing.

Returned & filed Jan'y 15, 1880.

N. W. TRIMBLE, *Clerk.*

7 *Motion to dissolve seizure.*

THE UNITED STATES
vs.
BRYANT & WEEKLEY.

In the circuit court of the United States for the southern district of Alabama.

The defendants in this cause come and move the court for an order to dissolve the order of seizure of the property sued for in the summons and complaint, and for an order to the marshal to restore the said property to the defendants, and for ground of this motion show to the court—

First. That it appears by the record in this cause that no affidavit or bond was given by the plaintiff, as required by law in detinue suits, to authorize the seizure by the marshal of the property sued for in said suit, which fact appears of record in said suit.

Secondly. There was no endorsement on the writ made by the
8 clerk of this court, as required by law, directing the marshal to seize and take into his possession the property sued for and described in the complaint, and such seizure was not authorized and directed in said suit, and said seizure was without authority or direction of this court.

Thirdly. The said property, not having been replevied by the defendant within five days after the seizure by the marshal of this court, and the plaintiff having also failed for five days to give bond and take the property, as required by law, that said property should have been restored to these defendants, and these defendants are now entitled to have the possession and control of said property.

Jan'y 22, 1880.

ANDERSON & BOND,
For Motion.

The District Attorney, contra.

9 *Petition to sell property seized.*

To the honorable the judges of the circuit court of the United States of the southern district of Alabama, at Mobile:

Your petitioner, George M. Duskin, attorney of the United States for the southern district of Alabama, for and in behalf of the said United

States, respectfully shows to the court here that on the 8th day of August, 1879, the said United States, by its attorney aforesaid, instituted suits in the nature of actions of detinue against Henry Bryant, Henry Bryant and J. V. Weekley, Henry Peaglar, Henry Peagler and Richard Lewis, Green B. Hinote and Jack Hernandez, J. D. Cameron, Allen McKinnon and Alexander McKinnon, J. B. Johnson, and John Skinner, to recover of and from the above-named persons twenty-seven thousand eight hundred and forty-nine sticks or logs of pine, of the value of thirty-four thousand
10 nine hundred and sixty-four dollars, cut upon the lands of the United States, situate in the county of Baldwin, in said southern district; that the clerk of said court upon the issuance of the summonses in the said suits indorsed upon the same that the marshal was required to take the property mentioned in said causes into his possession, unless the defendants would give a forthcoming bond for the property claimed in the suits, as required by law; that the marshal of said district, in obedience to the said indorsements, took into his possession a part of the property mentioned in said complaints, to wit, seven thousand four hundred and fifteen sticks or logs of pine, of the value of, to wit, nine thousand two hundred and sixty-nine dollars. That the expense of watching and taking care of said sticks or logs is great, and if long continued will be more than they are worth.

Your petitioner therefore, in behalf of the said United States, re-
11 spectfully prays the court to grant an order directed to the said marshal to sell at public outcry, after giving ten days' notice of sale in one of the daily newspapers published in the city of Mobile and three insertions in the Pensacola Gazette, to the highest bidder for cash, the said seven thousand four hundred and fifteen sticks or logs, and that he bring into the court and pay over to the clerk thereof the proceeds of such sale, to abide the future order and decree of the court.

GEORGE M. DUSKIN,
U. S. Attorney.

Filing.

Filed February 16th, 1880.

N. W. TRIMBLE, *Clerk.*

Order to marshal to sell timber.

U. S. circuit court, southern district of Alabama.

UNITED STATES *vs.* HENRY BRYANT.	In detinue.
12 UNITED STATES *vs.* HENRY BRYANT & J. V. WEEKLEY.	In detinue.
SAME *vs.* HENRY PEAGLER.	Do.

	SAME *vs.* HENRY PEAGLER & RICHARD LEWIS.	Do.
	SAME *vs.* GREEN B. HINOTE & JACK HERNANDEZ.	o.
	SAME *vs.* J. D. CAMERON.	Do.
	SAME *vs.* ALLEN MCKINNON & ALX. MCKINNON.	Do.
	SAME *vs.* J. B. JOHNSON.	Do.
13	UNITED STATES *vs.* JOHN SKINNER.	In detinue.

These matters coming on to be heard upon the petition of George M. Duskin, attorney of the United States for said district, for the sale of about seven thousand four hundred and fifteen logs of pine, and upon consideration, it appearing to the court that the said logs were seised by the marshal by virtue of writs of detinue issued out of this court on the 8th day of August, A. D. 1879, at the suit of the United States against the said several defendants, as set forth above, for the recovery of said logs, together with other logs in said suits, claimed as the property of the United States;

And it further appearing that no person has claimed said seven thousand four hundred and fifteen logs, and that the expense of watching and taking care of the same by the marshal is great, and will soon amount to the full value of said logs if the same are not sold:

14 *Order of sale.*

It is hereby ordered that after publication by the marshal in a daily newspaper published in Mobile for the space of ten days, and in the Pensacola Gazette three insertions, the said seven thousand four hundred and fifteen logs be sold at public outcry by the marshal of this court at or near Noonie Ferry, in Baldwin County, Alabama, in the said district, at and near where the said logs now are, to the highest bidder for cash; and that the proceeds of such sale be deposited by the marshal in the registry of the court with the clerk thereof, to abide the further order and decree of the court, to be made in said cause.

Mobile, Alabama, Feb'ry 16, 1880.

JOHN BRUCE, *Judge.*

Filing.

Filed February 16th, 1880.

15 *Petition to restrain marshal from selling timber.*

In the circuit court of the United States for the southern district of Alabama.

To the honorable John Bruce, judge of the district court of the United States for the southern district of Alabama:

The petition of Henry Bryant respectfully shows to your honor that he is the defendant in two suits of detinue now pending in the circuit court of the United States for the southern district of Alabama, wherein the United States is plaintiff, in one of which petitioner is sued alone, and in the other he is joined as defendant and as a partner with J. V. Weekley, in the first of which the plaintiff claims 3,200 pine logs, and the marshal levied on 138 logs, lying near Noonis Ferry, and also 1,500 logs, more or less, as they lies cattered for 40 miles on the banks of the Styx River and its tributaries.

16 And in the suit against Bryant and Weekley the plaintiff claims 2,740 logs, and the marshal levied on 858 sticks or logs of pine timber, lying near Noonis Ferry, and 1,500 more, more or less, as they lie scattered on the banks of the river Styx and its tributaries for forty miles.

Petitioner shows that at an early period of the December term, viz, on the 22nd day of January, 1880, of the said circuit court, by his counsel, he moved the court to dis'olve the levy of the marshal under the writ of detinue in said cases, because, amongst other reasons stated in the motion docket, the plaintiff in suing out the said writ of detinue had not complied with the requirements of the statute of the State of Alabama in such cases, to wit, sections 2942 & 2943 of the code of Alabama, in this, that they failed to make the affidavits and to execute the bonds to the defendants therein required, and the clerk had no authority to issue his

17 order directing the marshal to make the seizure, as provided for in said sections, and also because it was apparent on the face of the returns of the marshal in said cases that he had not taken the said sticks of timber into his possession, and his return showed that as a matter of fact and of law the said marshal was not then, and has not since been, in actual possession of said sticks of timber, and so there was no sufficient levy.

Petitioner shows further that he is informed by his counsel that said motion was brought to the attention of the court on several occasions, in order that the same might be heard; and the hearing of said motion was pressed on the court from time to time during the term, but the same was passed over until the last day of the term, when it was argued by counsel of petitioner, when it was suggested by the court, on account of a lack of time for a satisfactory hearing and determination, that the argument should be made by counsel in writing.

18 On this suggestion of your honor, and the further one that the court would remain open for 30 days, it was agreed by the district attorney and counsel for petitioner that the motion should be argued in writing and the decision be made within the thirty days to which the time was to be extended.

Petitioner further shows that he is advised by his counsel that precisely the same point made in his said motion as to the validity of the seizure of said logs under said writs was decided by your honor at the last term of the circuit court in Montgomery; and that there was no reason to doubt that the same opinion would be maintained by your honor, unless some authoritative decision not before known should be produced, leading the mind of your honor to a different conclusion.

And that the district attorney held the same opinion of the probable ruling of the court on the said motion was apparent from the fact, known to the court, that he claimed the right, in the event that *that* your honor should maintain same opinion, to have a bill of exceptions signed
19 as in term time, which was agreed to.

And petitioner is further advised by his counsel that he assented to the delay in hearing the motion, believing fully from these circumstances that the status of the property would remain as it had been until the decision of said motion, but he now shows to your honor that the marshal of the district, with the knowledge and assent of the district attorney, has advertised said logs, so seized and levied on, to be sold at public sale at Noonis Ferry, in Baldwin, County on the 10th day of March next.

That said proposed sale is in violation of his rights under said motion and its continuance as stated; that it is not authorized by the law under which the property was seized; that the seizure was not authorized by law, and petitioner had a right to move for its dissolution, as was done; that the levy was wholly insufficient; that for the reasons stated neither the petitioner nor any one else having an interest was required
20 to execute a replevy or other bond for the same.

And he further says that he is informed by his counsel that an order for the sale of the said timber was made on the 16th of February, 1880, as appears by an entry on the records of said circuit court, on a motion made before your honor by the district attorney, of which motion or entry neither petitioner nor his counsel had any notice or information until after this petition was begun; that said suit has been defended by Anderson and Bond from the first term after its return into court to the present time, and that said order was made while petitioner's motion to dis'olve the seizure and levy in said cases was pending, and more than three weeks after the same had been put on the motion docket, and both petitioner's counsel and the district attorney had announced their readiness to argue the said motion to the court.

21 And said argument would have been made as before stated but for the presence of witnesses and parties in other cases to which the court deemed it expedient to give the first attention until they should be disposed of. And his said counsel would have opposed the motion to sell if he had been advised of it as injurious to his interests, and especially as tending wholly to defeat his rights under said motion.

Wherefore petitioner prays your honor to make an order directed to George W. Turner, marshal, &c., restraining and enjoining him from selling said logs until the further order of your honor, or until some period to be fixed after the determination of said motion.

ANDERSON & BOND,
Attorneys for Petitioner.

Affidavit to petition of H. Bryant.

STATE OF ALABAMA,
Mobile County:

Before me, Wm. S. Anderson, a notary public for said county, in said State, personally appeared D. C. Anderson, who, after being duly sworn, deposes and says he is one of the attorneys for Henry
22 Bryant and for Bryant and Weekley in the suits named in the foregoing petition; that the matters of fact stated in said petition he believes to be true, and that he has been of counsel in said cases from the time of the return of the complaint and summons into court.

D. C. ANDERSON.

Subscribed and sworn to before me this 2nd day of March, 1880.

WM. S. ANDERSON,
Notary Public Mobile County.

Order endorsed on petition restraining marshal, &c.

The clerk will issue an order to the marshal restraining him from selling the property (logs) seized in the cases of the United States vs. Bryant & Weekley and Same vs. Henry Bryant until the motion to dis'olve the seizure now pending in said suits shall have been determined.

March 8, '80.

JOHN BRUCE, *Judge.*

Filing.

Filed March 10th, 1880.

N. W. TRIMBLE, *Clerk.*

23 UNITED STATES OF AMERICA:

Circuit court of the United States, fifth circuit and southern district of Alabama.

THE UNITED STATES
vs.
BRYANT & WEEKLEY.

SAME
vs.
HENRY BRYANT.

Order restraining marshal from selling logs seized from Henry Bryant & Bryant & Weekley.

To the marshal of the United States for the southern district of Alabama, or to either of his deputies:

In pursuance of an order of the Hon. John Bruce, judge, &c., in words and figures as follows:

The clerk will issue an order to the marshal restraining him from selling the property (logs) seized in the cases of the United States vs. Bryant & Weekley and Same vs. Henry Bryant until the motion to dis'olve the seizure now pending in said suits shall have been determined.

M'ch 8, '80.

(S'g'd) JOHN BRUCE, *Judge.*

24 You are hereby prohibited and restrained from selling the property (logs) seized in the above-entitled causes until the motion now pending in said causes to dissolve the seizures shall have been determined.

Witness Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States, and the seal of said circuit court, this 10th day of March, A. D. 1880.

[CIRCUIT COURT SEAL.]

N. W. TRIMBLE,
Clerk U. S. Cir. Court Sou. Dist. Ala.

Acknowledgment of service of order.

The within order was read to me by the clerk of the circuit court of the U. S. this 10th day of March, A. D. 1880.

GEORGE TURNER,
U. S. Marshal,
By C. B. JOHNSTON, *Deputy.*

Filing.

Filed M'ch 10th, 1880.

N. W. TRIMBLE, *Clerk.*

25 *Marshal's return.*

Circuit court of the United States for the fifth judicial circuit and southern district of Alabama.

UNITED STATES vs. HENRY BRYANT.	628.	In detinue.
SAME vs. HENRY BRYANT & J. V. WEEKLEY.	627.	Do.
SAME vs. HENRY PEAGLER.	633.	Do.
SAME vs. HENRY PEAGLER & RICHARD LEWIS.	634.	Do.
SAME vs. GREEN B. HINOTE & JACK HERNANDEZ.	632.	Do.
SAME vs. J. D CAMERON.	631.	Do.
26 SAME vs. ALLEN MCKINNON & ALX. MCKINNON.	630.	In detinue.

SAME *vs.* J. B. JOHNSON.	629.	Do.
SAME *vs.* JOHN SKINNER.	635.	Do.

These matters coming on to be heard, upon the petition of George M. Duskin, attorney of the United States for said district, for the sale of about seven thousand four hundred and fifteen logs of pine, and upon consideration it appearing to the court that the said logs were seized by the marshal in virtue of writs of detinue issued out of this court on the 8th day of August, A. D. 1879, at the suits of the United States, against the said several defendants as set forth above, for the recovery of said logs, together with other logs in said suits, claimed as the property of the United States;

27 And it further appearing that no person has claimed said seven thousand four hundred and fifteen logs, and that the expense of watching and taking care of the same by the marshal is great, and will soon amount to the full value of said logs if the same are not sold:

It is hereby ordered that after publication by the marshal in a daily newspaper published in Mobile for the space of ten days, and in the Pensacola Gazette three insertions, the said seven thousand four hundred and fifteen logs be sold at public outcry by the marshal of this court, at or near Noonis Ferry, in Baldwin County, Alabama, in the said district, at and near where said logs now are, to the highest bidder for cash, and that the proceeds of such sale be deposited by the marshal in the registry of the court with the clerk thereof, to abide the further order and decree of the court to be made in said causes.

Mobile, Alabama, Feb'y 16, 1880.

(S'g'd) JOHN BRUCE, *Judge.*

28 *Filing.*

Filed February 16th, 1880.

N. W. TRIMBLE, *Clerk.*

I, N. W. Trimble, clerk of the circuit court of the United States for the fifth judicial circuit and southern district of Alabama, hereby certify the foregoing to be a full, true, and correct copy of the order of court for the sale of seven thousand four hundred and fifteen logs of pine, seized by the marshal of the district, &c., made on the 16th day of February, A. D. 1880, as the same now appears of record and on file in my office.

In witness whereof I hereunto subscribe my name and cause the seal of said circuit court to be affixed this the 21st day of February, A. D. 1880.

[CIRCUIT COURT SEAL.] N. W. TRIMBLE, *Clerk.*

Marshal's return.

Received at office of U. S. marshal, at Mobile, on the 23d day of February, A. D. 1880, and after due advertisement in the Mobile
29 Daily News and three insertions in the Pensacola (Fla.) Gazette, I sold the logs, as advertised, at public auction, at Noonis Ferry, in

Baldwin County, Alabama, on March 22nd,1880, in lots as advertised, as follows:

"Except the logs seized from Henry Bryant and Bryant and Weekley, which logs were not sold in obedience to a restraining order issued by the clerk of the circuit court of the U. S. and served upon me on the 10th day of March, A. D. 1880."

GEORGE TURNER,
U. S. Marshal,
By C. B. JOHNSTON, *Deputy.*

Filing.

United States circuit court, southern district of Alabama.

Filed 1st day of June, 1880.

N. W. TRIMBLE, *Clerk.*

Order sustaining motion to dissolve seizure.

Circuit court of the United States, fifth judicial circuit and southern district of Alabama.

WEDNESDAY MORNING, *June* 9, 1880.

30 Court met pursuant to adjournment. Present, Honorable John Bruce, judge of the district courts of the United States for the State of Alabama, sitting as circuit judge.

THE UNITED STATES *vs.* BRYANT & WEEKLEY. } 627.

THE UNITED STATES *vs.* HENRY BRYANT. } 628.

In these cases motion is made severally by the defendants for an order to dissolve the order of seizure of the property, and for an order to the marshal to restore said property to the defendants, on the ground that no affidavit or bond was given by plaintiff, as required by law in detinue suits, to authorize the seizure by the marshal of the property sued for in said suit, which fact appears of record in said suit, and other grounds stated in said motion.

And the court having heard and carefully considered said motion, doth order that the said motion be severally granted, and that the mar-
31 shal do forthwith restore the property so seized in said suits to the said defendants severally; to which ruling the United States, by its attorney, George M. Duskin, esq., now in open court excepts.

Judgment.

Circuit court of the United States, fifth judicial circuit and southern district of Alabama.

MONDAY, *January 10th*, 1881.

Court met pursuant to adjournment. Present, the Hon. John Bruce, judge of the district courts of the United States for the State of Alabama, sitting as circuit judge.

UNITED STATES
vs.
BRYANT & WEEKLEY.

Civil suit for timber.

This day come the parties, by their attorneys, and also to try the
32 issues joined comes a jury of good and lawful men, to wit, A. B. and eleven others, who, being duly empannelled and sworn, upon their oaths do say, We, the jury, find for the plaintiff five hundred (500) logs, and assess their value at thirty (30) cents per log, or one hundred and fifty ($150) dollars.

It is therefore considered by the court that the plaintiff, the United States, have and recover of the defendants said five hundred logs, or their alternate value, one hundred and fifty ($150) dollars, the value thereof, and the costs of this suit, for which let execution issue.

Motion to set aside order dissolving seizure.

THE UNITED STATES
vs.
HENRY BRYANT AND J. V. WEEKLEY.

33 Circuit court of the United States, December term, 1880.

The plaintiff, by their attorney, George M. Duskin, moves the court to vacate and set aside the order dis'olving the seizure of the logs heretofore made at a former term of this court in this case because the defendants have no property which is not exempt from execution by the laws of Alabama other than the logs seized, for which, or their alternate value, judgment has been rendered in this cause for the plaintiff.

GEORGE M. DUSKIN,
U. S. Attorney.

To Messrs. ANDERSON & BOND.
JANUARY 10TH, 1881.

34 *Order refusing motion to set aside order dis'olving seizure.*

THURSDAY MORNING, *January 13th*, 1881.

Court met pursuant to adjournment. Present, Hon. John Bruce, judge of the district courts of the United States for the State of Alabama, sitting as circuit judge.

UNITED STATES
vs.
HENRY BRYANT & J. V. WEEKLEY. } 627.

This cause comes on to be heard upon the motion of George M. Duskin, esq., attorney for the United States, to vacate and set aside the order made

herein at a former term of the court, dissolving the seizure of the logs, the subject-matter of this suit, upon the ground that the defendants have no property over and above the exemption from execution allowed by the laws of the State of Alabama.

Upon consideration whereof it is ordered by the court that said motion be, and the same is, denied and overruled.

To which ruling the United States, by its attorney, duly excepted.

35 *Petition for writ of error.*

UNITED STATES OF AMERICA
vs.
BRYANT & WEEKLEY.

Circuit court United States, southern district of Alabama.

The plaintiff in the above-entitled cause now comes, by its district attorney, and claims and applies for a writ of error, returnable to the next term of the Supreme Court of the United States, in due form, to review the judgment and proceedings had in this cause.

GEORGE M. DUSKIN,
District Attorney of the United States for the Southern District of Alabama.

Filing.

Filed February 5th, 1881.

N. W. TRIMBLE, *Clerk.*

36 *Order allowing writ of error.*

Circuit court of the United States, fifth judicial circuit and southern district of Alabama.

SATURDAY MORNING, *Feb'y 5th*, 1881.

Court met pursuant to adjournment.

Present: Honorable John Bruce, judge of the district courts of the United States for the State of Alabama, sitting as circuit judge.

THE UNITED STATES
vs.
BRYANT & WEEKLY. } 627.

This cause coming on to be heard, on the application of George M. Duskin, esq., U. S. attorney, for a writ of error, returnable to next term of the Supreme Court,

It is ordered that said application be, and the same is hereby, granted.

37 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judge of the circuit court of the United States for the southern district of Alabama, greeting:

Because in the record and proceedings as also in the rendition of the judgment of a plea which is in the said circuit court before you, between

the United States of America and Henry Bryant and J. V. Weekley, otherwise called Bryant and Weekley, a manifest error hath happened, to the great damage of the said the United States of America, as by its complaint appears, we, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the honorable Morrison R. Waite, Chief Justice of the said Supreme Court, the 5th day of February, in the year of our Lord one thousand eight hundred and eighty-one.

[SEAL.] N. W. TRIMBLE,
Clerk of the Circuit Court of the United States, Sou. Dist. of Ala.

Allowed by—

JOHN BRUCE, *Judge.*

(Indorsed:) Filed Feb'ry 5th, 1881. N. W. Trimble, clerk.

38 The United States of America to Messrs. Henry Bryant and J. V. Weekley, otherwise called Bryant and Weekley, or their attorneys, Messrs. Anderson and Bond, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States of the southern district of Alabama, wherein the United States of America is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in the said writ of error mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 5' day of Feb'y, in the year of our Lord one thousand eight hundred and eighty-one.

JOHN BRUCE, *Judge.*

39 On this thirtieth day of April, in the year of our Lord one thousand eight hundred and eighty-one, personally appeared W. B. Hughes, dep. U. S. marshal, before me, the subscriber, Henry S. Skaats, a United States commissioner in and for the southern district of Alabama, and makes oath that he delivered a true copy of the within citation to James Bond, of the firm of Anderson & Bond, attorneys for defendants.

W. B. HUGHES,
Dep. U. S. Marshal.

Sworn to and subscribed the 30th day of April, A. D. 1881.

HENRY S. SKAATS,
U. S. Commissioner So. Dist. Ala.

40 Circuit court of the United States, fifth judicial circuit and southern district of Alabama.

I, N. W. Trimble, clerk of the court aforesaid, do hereby certify the foregoing to be a full, true, and correct transcript of all papers and proceedings had therein in the case of the United States against Bryant & Weekley, as the same remain on file in my office.

In testimony whereof I hereunto sign my name and affix the seal of said circuit court this 29th day of September, A. D. 1881.

[SEAL.] N. W. TRIMBLE, *Clerk.*

(Indorsement on cover:) No. 321. The United States, plaintiff in error, vs. Henry Bryant and J. V. Weekley, otherwise called Bryant & Weekley. S. Alabama C. C. U. S. Filed October 3, 1881.

In the Supreme Court of the United States.

OCTOBER TERM, 1883.

THE UNITED STATES, PLAINTIFF IN ERROR,
vs.
HENRY BRYANT AND J. V. WEEKLEY. } No. 321.

BRIEF FOR THE UNITED STATES.

This is detinue to recover certain pine logs, the property of the United States.

Under the modifications this action has undergone by statute in Alabama it may perform the office of replevin.

The code of that State (*Anno* 1876) provides, in this particular, as follows:

> SEC. 2942 (2593). *In actions of detinue the plaintiff may give bond, and require the sheriff to seize the property if bond be not given.* When a suit is brought for the recovery of personal chattels in specie, if the plaintiff, his agent or attorney, make affidavit that the property sued for belongs to the plaintiff, and execute a bond in such sum and with such surety as may be approved by the clerk, with condition that if the plaintiff fail in the suit he will pay the defendant all such costs and damages as he may sustain by

the wrongful complaint, it is the duty of the clerk to indorse on the summons that the sheriff is required to take the property mentioned in the complaint into his possession, unless the defendant give bond payable to the plaintiff, with sufficient surety, in double the amount of the value of the property, with condition that if the defendant is cast in the suit, he will, within thirty days thereafter, deliver the property to the plaintiff and pay all costs and damages which may accrue from the detention thereof.

SEC. 2943 (2594). *On neglect of defendant to give bond for five days, property to be delivered to plaintiff on his giving bond.* If the defendant neglect for five days to give such bond the property sued for must be delivered to the plaintiff on his giving bond, with sufficient surety, in double the value of the property, payable to the defendant, with condition to deliver the property to the defendant within thirty days after judgment, in case he fail in the suit, and to pay damages for the detention of the property and costs of suit. If the plaintiff fail for five days to give such bond, after the expiration of the time allowed the defendant, the property must be returned to the defendant.

In virtue of these provisions the logs named in the complaint (R., p. 1) were seized by the marshal (R., pp. 2, 3), but there was no conformity with the statute by the United States in the article of giving security, so that it was on the basis of the affidavit verifying the complaint, the sufficiency of which was, indeed, questioned, alone that the seizure was made.

On 22d January, 1880, a motion to dissolve the order of seizure was filed. The grounds of motion were (1) that no affidavit or bond, as required by law, had been given,

and (2) that the clerk's indorsement of the writ gave no authority to the marshal to make the seizure. There was a third ground, but it appears to be without significance.

Before this motion was disposed of the United States, on the 16th February, 1880, filed a petition asking that the logs seized might be ordered to be sold and the proceeds paid into court (R., pp. 3, 4), and accordingly an order to that effect was made by the court on the same day. (R., p. 5.)

Subsequently, however, to wit, on 8th March, 1880, the execution of the order of sale was inhibited by a restraining order of the same court. (R., pp. 8, 9.)

On the 9th June, 1880, the court dissolved the order of seizure on the grounds above stated. (R., p. 11.)

On the 10th January, 1881, the case was tried and a verdict rendered for the United States for five hundred logs, and their value assessed at $150, and judgment accordingly. (R., p. 12.)

ASSIGNMENT OF ERROR.

The error assigned is the action of the court in dissolving the order of seizure.

ARGUMENT.

The record sufficiently shows that sections 2942 and 2943 of the Code of Alabama form part of the procedure of the court below. The argument, therefore, starts with that assumption.

THE AFFIDAVIT.

The ground on which the affidavit is assailed must be that the deponent, the agent of the General Land Office, deposes, "*to the best of his knowledge, information, and belief*," that the property in question is the property of the United States (R., p. 1). upon a conceit that the language of the affidavit is not sufficiently positive and strong.

The statute provides that there may be a seizure "if the plaintiff, *his agent, or attorney* make affidavit that the property sued for belongs to the plaintiff," &c.

The sanction of the above requirement of the code is the penalty of perjury. If, then, perjury could be assigned on such an affidavit as the aforegoing it would seem to be sufficient.

To convict of perjury 'tis not enough to show that the oath was false, but 'tis necessary to go further and show that it was *knowingly* false. If any ground exist on which a *belief* might have been founded, there must be an acquittal, but if a witness swear to his belief of a thing, he may be convicted of false swearing if it be shown that he had no ground whatever for belief. If, then, the deponent in this case had sworn directly that the property

sued for was that of the Government he could not be convicted of false swearing in that regard if there were any basis for belief in the verity of the matter on which the perjury was assigned.

Moral evidence never rises above presumption. The most that a deponent can swear is that a given matter is so to the best of his belief. How then could the oath in question have been strengthened, looking to the sanction of the penalty of perjury?

If a witness make oath that an article of apparel is his property the utmost to which he deposes is that it is so "*to the best of his knowledge, information, and belief;*" no form of asseveration can carry his evidence a degree higher, for vehemence of expression is no test of credibility.

But, supposing this view not maintainable, it is submitted that the code of Alabama, in authorising the affidavit to be made by plaintiff's "*agent or attorney,*" impliedly warrants a less degree of evidence where the affidavit is made by persons holding either of those relations than when made by the plaintiff himself, especially in the case of Government, which can only act by agents. This view derives some support from the construction given to a similar provision in the attachment law of that State by its supreme court in Mitchell *v.* Pitts (61 Ala. Repts., p. 222). In that case the affidavit of the attorney of a non-resident plaintiff "*that he is informed and believes, and therefore states that,*" &c., furnished a good basis for issuing the attachment. But the very *opposite* of this view was taken by the supreme court of Georgia in Neal *v.* Gordon (60 Ga., 112), and by the supreme court of Rhode

Island in Green *v.* Tripp (11 R. I., p. 424). But see Drake on Attachment, sec. 94.

Certainly the difficulties in the way of the United States in its contentions with depredators on the national timber lands in Alabama will be immensely increased if a larger measure of proof than the affidavit in question affords is necessary before there can be a seizure of the timber sued for. If the view of the court below is sound the Government can not replevy its timber upon a degree of proof short of what may be sufficient to warrant a verdict in its favor, which it is needless to add would defeat justice in many cases where the remedy to be effective must be *festinum*.

WAS SECURITY NECESSARY?

It would seem clear that the adoption by the circuit court of the Alabama procedure must be taken as in subordination to section 1001 of the United States Revised Statutes, which expressly provides that no security shall be required "whenever a writ of error, appeal, or other process in law, admiralty, or equity, issues from or is brought up to the Supreme Court or a circuit court, either by the United States or by direction of any Department of the Government." It hardly admits of doubt, then, that the Alabama law requiring security from the plaintiff in detinue has no application to the United States. It was so ruled by the supreme court of this District in United States *v.* Ottman (23 Int. Rev. Rec., 294), with reference to the attachment law of the District which requires security before a plaintiff can sue out the process.

But, apart from this legislation, it inheres as much in

the legal conception of sovereignty not to give security as not to pay costs or be bound by statutes of limitation not expressly applying to Government. It is, therefore, to be presumed, conclusively, that section 2942 of the Code of Alabama was intended to be taken in subordination to this well-established principle in its application both to the United States and the State itself.

Seeing that the depredators on the public timber are, generally, wholly irresponsible, judgments against them for damages only must be fruitless, and, therefore, 'tis of importance to the United States to be able to replevy its timber by seizure on *mesne* process, to prevent its being eloigned in order to frustrate the judgment in detinue for the specific thing sued for.

It is respectfully submitted that the judgment must be reversed.

WM. A. MAURY,
Assistant Attorney-General.

Exhibit A.

Referred to & filed with the foregoing Bill June 7th, 1881.

No. 902
Slidell et al.
v.
Grandjean, U.S. Deputy Surveyor

page 10

PLAN OF THE CLAIM of WILLIAM CONWAY O.B. REP. No 125 AND ITS CONNECTIONS.

DANIEL CLARK OLD BOARD REPORT No 127
N. 16° 30' E. 14 Miles 32 Chs. & 60 Lks. By 16" collar Va. 8°45'

T.9S-R.4E.

T.9S-R.5E.

T.9S-R.6E.

BAYOU MANCHAC

WILLIAM CONWAY OLD BOARD REPORT No 125.
123,516.90 ACRES.

RIVER AMITE

BIG CHENIE BLANC BAYOU

LITTLE CHENIE BLANC BAYOU

BLIND RIVER

ALLIGATOR BAYOU

LAKE MAUREPAS.

T.10S-R.3E.

T.10S-R.4E.

T.10S-R.5E.

T.10S-R6E.

Bayou Conway

Conway Place — Sugar House

Orange Grove — Sugar House

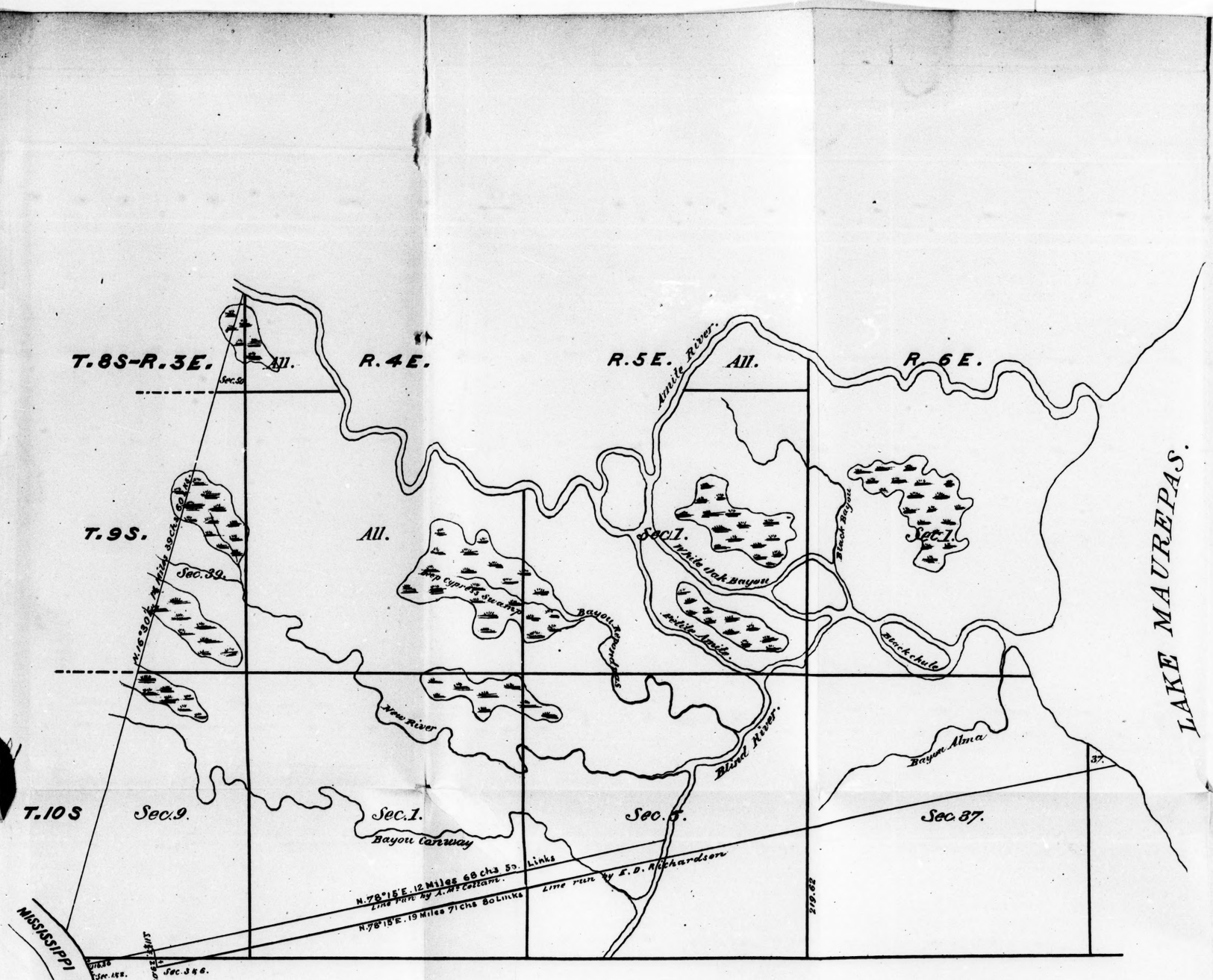
M.D. Brangier

LINE BY E.D. RICHARDSON N.78°15'E. 19 MILES 71 CHS. OF THE CLAIM OF WM CONWAY

OR BLIND RIVER

BAYOU ACADELLES

1



No. 903.
Seidell et al
v.
Richardson,
Register &c.
} page 110.

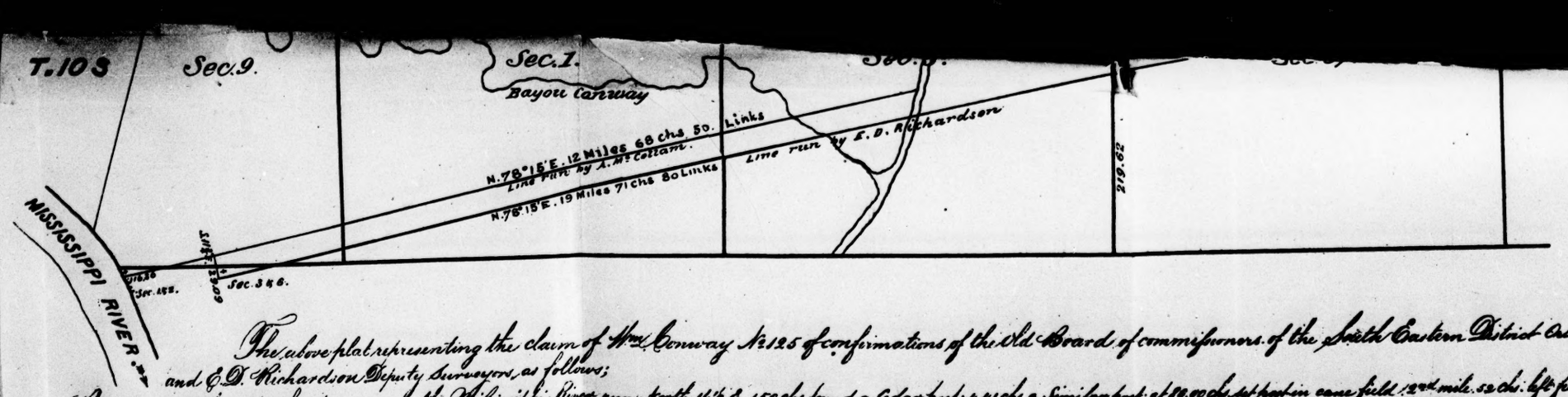
The above plat representing the claim of Wm Conway № 125 of confirmations of the Old Board of commissioners of the South Eastern District Orleans Territory, has been made out from the field notes of Andrew McCollam and E.D. Richardson Deputy Surveyors as follows;

Beginning at the upper front corner on the Mississippi River, run North 16½ E. 150 chs. found a Cedar post; at 40 chs a Similar post; at 80.00 chs set post in cane field 1st mile. 52 chs. left field, and enter briars, 62.00 chs. left briars & enter clearing; 80. chs. set 2nd mile post marked a dry Sycamore thence on 3rd mile in dry cane, high land thinly timbered with ash, oak, gum Hackberry and sycamore, 72.72 chs. set 80 cypress post. 2000 chs 13th mile post; thence on 4th mile in strong cane, very thick, timber principally Elm and Oak. 82.00 chs left cane & entered open woods, struck an old Blaze, 77.50 chs. came to a creek 7.50 chs wide; 30 inches deep; 86.00 chs. set ¼ mile post in low land; timber ash Oak & cypress. on 5th mile 1050 chs enter cane, 22 chs left cane and entered low land, 37.00 chs. entered cane very stiff, 59.60 chs came to Bayou Conway 60.30 chs to the opposite side, 70.00 chs enter cypress swamp; 80.00 chs. 5th mile post, on 6th mile, in swamp, 10.00 chs, enter high Palmettoes, 53.39 chs. intersected the Township line, between Towns. 9 & 10 S. of range 3 E. 3.76 chs. East of the ¼ Sec. post; between Sec. 18 & 34; having been shown the corner of secs. 18 & 19. 33 & 34, where the bearing trees were four Hollys; I retained the line at 40.00 chs. found a hackberry mkd. ¼ S. 80.00 chs. set 6th mile post. On the 7th mile on high land; 5.00 chs. enter cane, 19.00 chs. left cane, 30.00 chs. enter low land, 36 chs. high land, 40.00 chs. low land, 52.00 chs. came to a creek 52.30 chs. opposite side, 57.00 chs. enter cane 57.72 intersected. East & West lines between secs. 34 & 27 - 22 & 35, bearings as follows Ash, an Elm, and a hackberry 8.00 chs. set 7th mile post in cane. On the 8th mile 13.00 chs came to New River 14.30 chs to the opposite side, 30.20 chs. came to a small bayou 30.70 chs to the opposite side 80.00 chs set 8th mile post; On the 9th mile; 11.00 chs. left cane, 8.50 chs. Briars, 15.00 chs left Briars, 25.00 chs. enter Palmettoes, 80.00 chs. set 9th mile post in a low place, saw several pine trees ahead; On the 10th mile; 19.00 chs. enter cane, 50.50 chs. left cane, open woods, 80.00 chs 10th mile post; on the 11th mile open woods, timber Ash & Holly; undergrowth sweet bay & green briars, 73.28 chs. intersected the section line between sections 1 & 12. 60 Links East of post, came to sections 12. 11 & 12. the bearing trees were ¼ oaks; set 11th mile post at 80.00 chs. - On the 12th mile; timber Oak, ash, & pine, 77.00 chs. intersected the North Bdy. line of T. 9 R. 3 following it west 65.00 chs. I found a Magnolia marked on 4 sides; I followed it some further and found no other corner 80.00 chs. Set 12th mile post. On 13th mile 11.00 chs enter cane 56.00 chs. left cane entered a creek well timbered with cypress, 61.00 chs. left creek, entered cane, High land; timber Oak & Magnolia, 80.00 chs. Set 13th mile post in cane, on 14th mile 16 chs. leave cane enter deep swamp 25.00 chs. cane, 25.00 chs. leave cane, & enter swamp from 2 to 4 feet deep, 53.50 chs. left swamp enter a point of cane, 58.00 chs. entered a log hole, 62.00 chs enter cane & briars 80.00 chs. Set 14th mile post, on the 15th Mile 35.00 chs crossed the road to Galveztown, 39.60 chs. set a post on the bank of the Amite River from which bears a Sycamore S. 48 W. 34 lks. mkd (U.S.T.P. 14½ m) an oak bears N. 80 W. 26 lks. mkd (14½ m) a Willow mkd (U.S.R. 14½ M) bears S. 30 E.

Thence down the Amite River S. 9° E. 10.35 chs. - S. 25° E. 7.50 - S. 19½° E. 5.00 - S. 31° E. 5.00 - S. 52° E. 6.50 - S. 36½° E. 15.50 - S. 6° E. 3.50 - S. 7½° E. 6.50 - N. 66° E. 11.00 - N. 54° E. 18.50 - S. 76° E. 2.50 - S. 65° E. 2.50 - S. 80° E. 2.50 - S. 53° E. 2.00 - S. 35° E. 2.00 - South 1.50 - S. 60° W. 13.00 - S. 5° W. 3.50 - S. 26° W. 3.50 - S. 8° W. 13.50 - S. 14° E. 3.50 - S. 40° E. 6.00 - S. 65° E. 12.50 - S. 48° E. 5.50 - S. 81° E. 6.00 - S. 81° E. 8.00 - S. 63° E. 3.50 - S. 56° E. 3.00 - S. 23° E. 3.00 - S. 56° E. 2.12 - S. 4° W. 3.00 - S. 19° W. 7.50 - S. 4° W. 11.00 - S. 14° W. 11.50 - S. 39° E. 3.50 - S. 50° E. 4.00 - S. 20° E. 7.50 - S. 5° E. 6.00 - S. 19° E. 8.50 - S. 29° E. 4.00 - S. 21° E. 8.00 - S. 8° E. 12.00 - S. 20° E. 6.00 - S. 34° E. 7.00 - S. 65° E. 2.00 - South 4.50 - S. 68° E. 3.50 - S. 11° W. 11.50 - S. 54° E. 11.50 - S. 24° E. 6.00 - S. 25° W. 11.50 - West 6.00 - S. 39° W. 2.50 - S. 65° W. 2.50 - S. 29° W. 11.50 - S. 14° W. 3.00 - South 11.50 - S. 18° E. 11.50 - S. 23° E. 8.50 - S. 4° W. 11.00 - S. 21° E. 1.50 - S. 83° E. 1.00 - S. 53° E. 3.50 - S. 53° E. 2.50 - N. 86° E. 3.00 - S. 73° E. 22.00 - S. 46° E. 7.75 - S. 65° E. 1.50 - S. 86° E. 16.50 - South 4.00 - S. 40° W. 15.00 - S. 5° E. 13.70 - S. 35° E. 2.00 - S. 31° E. 1.50 - S. 13° E. 11.50 - S. 20° E. 5.00 - S. 13° E. 7.50 - S. 4° E. 11.00 - S. 16° E. 12.00 - S. 30° E. 6.00 - S. 45° E. 12.00 - S. 49° E. 22.00 - N. 64° E. 6.50 - East 12.00 - N. 52° E. 16.00 - N. 5° E. 11.50 - N. 21° W. 11.00 - N. 57° E. 5.00 - S. 32° E. 22.00 - S. 7° E. 11.50 - N. 6° E. 11.00 - S. 56° E. 20.20 - N. 0° E. 2.50 - S. 56° E. 18.50 - S. 29° E. 13.00 - S. 63° E. 12.00 - N. 67° E. 19.50 - S. 85° E. 16.50 - S. 66° E. 21.75 - S. 60° E. 11.50 - N. 86° E. 12.00 - N. 46° E. 13.00 - N. 20° E. 10.50 - N. 44° E. 5.00 - N. 85° E. 11.50 - S. 44° E. 6.00 - S. 21° E. 5.50 - S. 11° W. 6.00 - S. 11° W. 6.00 - S. 26° E. 5.15 - S. 4° W. 2.00 - S. 60° E. 7.50 - East 5.00 - N. 4° W. 3.50 - N. 60° E. 5.00 - N. 53 E. 6.75 - N. 24° E. 1.00 - N. 40° E. 15.00 - N. 57° E. 12.00 - N. 80° E. 12.00 - S. 76° E. 8.00 - S. 67° E. 9.00 - S. 61° E. 10.50 - N. on Island N. 37° E. 25.00 - N. 53° W. 2.00 - N. 4° W. 3.00 - N. 81° W. 9.00 - N. 5° W. 20.00 - N. 17° E. 7.00 - N. 50° E. 7.00 - N. 71° E. 6.00 - N. 85° E. 25.00 - N. 39° E. 2.00 - N. 55° E. 7.00 - N. 22° E. 9.00 - N. 58° E. 5.00 - N. 37° E. 15.00 - N. 79° E. 8.00 - S. 32° E. 5.00 - S. 69° E. 5.20 - S. 18° E. 8.00 - East 9.00 - N. 2° W. 8.00 - N. 58° E. 12.00 - S. 13° E. 6.00 - S. 65° E. 13.00 to the foot of the Island - S. 66° E. 9.00 - S. 26° E. 21.00 - N. 54° E. 11.00 to a shell bank and a house - N. 10° W. 25.00 - N. 17° E. 9.00 - N. 4° E. 11.00 - N. 19° E. 7.00 - N. 6° E. 11.00 - N. 5° E. 10.00 - S. 25° W. 11.00 - S. 37° E. 6.00 - N. 72° E. 10.00 - N. 13° W. 11.00 - N. 89° W. 6.00 - N. 42° E. 12.00 - N. 45° E. 10.00 - N. 12° E. 11.50 - N. 87° E. 4.00 - S. 44° E. 4.00 - N. 45° E. 9.00 - N. 26° W. 15.00 - N. 19° E. 8.00 - N. 44° E. 12.00 - N. 78° E. 11.00 - N. 11° W. 10.00 - N. 4° W. 7.00 - N. 50° E. 7.00 - N. 3° W. 12.00 - N. 40° E. 9.00 - N. 56° E. 6.00 - N. 53° E. 7.00 - N. 9° E. 8.00 - N. 41° E. 11.00 - N. 65° E. 11.00 - N. 18° E. 12.00 - N. 56° E. 4.00 - S. 69° E. 12.00 - S. 40° E. 9.00 - N. 56° E. 13.00 - N. 58° E. 9.00 - N. 74° E. 16.00 - S. 61° E. 5.00 - N. 82° E. 11.00 - N. 76° E. 11.00 - S. 87° E. 7.00 - S. 20° E. 3.00 - S. 32° E. 8.00 - S. 40° E. 12.00 - S. 70° W. 10.00 - S. 75° E. 14.00 - S. 33° E. 2.00 - S. 8° E. 6.00 - S. 66° E. 11.00 - S. 33° E. 2.00 - S. 69° E. 16.00 - N. 56° E. 22.00 - N. 22° E. 7.00 - N. 41° E. 18.00 - East 3.00 - N. 79° E. 8.50 - N. 20° E. 20.00 - N. 65° E. 2.50 - N. 35° E. 15.00 - S. 59° E. 23.00 - N. 30° E. 8.00 - at 9 chs. on this course an improvement. - S. 33 E. 6.00 - S. 54° E. 13.00 - S. 8° E. 5.00 - S. 7° E. 15.00 - S. 26° E. 7.00 - S. 45° E. 11.00 - S. 64° E. 16.00 - N. 56° E. 22.00 - N. 22° E. 7.00 - N. 41° E. 18.00 - East 3.00 - N. Moses House on the left bank - S. 46° E. 27.00 - S. 8° E. 21.00 - S. 30° W. 11.00 - N. 79° E. 17.00 - N. 23° E. 22.00 - S. 41° E. 39.00 - N. 15° E. 12.00 - N. 60° E. 44.00 - N. 51° W. 11.00 - N. 6° W. 11.00 - S. 83° E. 53.00 - S. 53° E. 21.00 - S. 12° W. 11.00 - S. 40° W. 17.00 - S. 66° E. 8.00 - East 9.00 - S. 62° E. 50.00 - East 17.00 - N. 50° E. 6.00 - N. 19° E. 20.00 - N. 46° W. 26.00 - N. 33° E. 20.00 - S. 69° E. 18.00 - S. 35° E. 10.00 - to Lake Maurepas - Thence along the Lake - S. 4° E. 11.00 - S. 13° W. 13.00 - S. 36° W. 55.00 - S. 51° W. 11.00 - S. 32° W. 26.00 - S. 25° W. 12.00 - S. 20° W. 16.00 - S. 12° W. 37.00 - at 15.00 chs. on this course came to shell bank; S. 19° W. 81.00 - S. 13° E. 31.00 leave shell bank, S. 32½° E. 11.00 - S. 53° E. 12.00 - S. 10° E. 32.00 - S. 26° W. 23.00 - S. 45° W. 23.00 - S. 26° E. 20. on the S. 25° W. 11.00 - S. 6° W. 11.00 - S. 16° W. 12.00 - S. 62° W. 15.00 - to shell bank - S. 50° W. 10.00 - S. 69° W. 8.00 - N. 50° W. 15.00 - to shell bank - N. 53° W. 6.00 - N. 43° W. 7.00 - N. 52° W. 7.00 —
S. 16° W. 8.00 - to the mouth of Blind River, thence by the meanders of E.D. Richardson - S. 11° W. 22.00 - across Blind River, thence with the lake S. 18° E. 30.00 chs. - S. 25° E. 43.00 - S. 45° E. 49.00 - S. 65° E. 52.00 - S. 50° E. 58.00 - to a cypress tree marked for the corner thus X & the letters M. D. B. blazed on 4 sides being 36 inches in diameter from which stands a cypress 40 inches diameter S. 26° E. 38 lks. and marked with a cross thus X also a cypress 24 in diameter N. 70° W. 57 lks. and marked as the one last described. I also took the bearing of 2 cypress trees which stand in the lake one of them bearing from the corner tree N. 74° E. the other N. 5° W. Thence S. 74° W. on the lower line; 70.00 chs to Blind River, 70.00 chs opposite side, 89.05 chs to Bayou Conway, 80.30 chs to opposite side, 139.60 chs intersected Range line between Townships 10 & 11 S. R. 3 & 4 E. 11.80.00 chs leave low swamp enter high land, timber ash, Hackberry & Gum, undergrowth cane, vines & briars - 11.26.80 chs to open swamp - 11.53.30 chs to switch cane 11.57.80 chs to open swamp 11.70.80 chs leave swamp 11.75 such post at 80 arpents from the river on Stiff cane 11.75.80 chs leave cane - 11.85.12 chs intersected Township line between Townships 10 & 11 South. Range 3 East - 11.87.30 chs enter swamp - 11.89.30 chs leave swamp enter Palmetto woods - 11.526.30 chs to Stiff cane - 1536.16 chs to Palmetto woods - 1569.80 chs. leave the Palmettos - 1591.90 chs to a post formerly established by W. Erwin agt Dep. Surveyor being the lower front corner of the 10 arpents reserved in the original survey made by Lafon and filed with the commissioners descriptions of the boundaries of the claim - Thence N. 11½° W. 22.19 chs intersected the Township line between Townships 10 & 11 South Range 3 East 29.00 chs to the line run by McCollam at 116.36 chs from the Mississippi River. Thence with said line S. 70½° W. 116.36 chs to post on the bank of the River thence up the River N. 9° W. 17.50 - N. 24° W. 11.50 - N. 13° W. 5.50 N. 22° W. 20.90 - N. 31° W. 11.50 chs to the place of Beginning. Containing one hundred & twenty three Thousand and Five hundred & sixteen acres and ninety hundredths of an acre (123516.90) and having such forms and marks, natural & artificial as are represented in the above plat and Description.

Surveyor Generals Office.

2



The above plat representing the claim of Wm. Conway № 125 of confirmations of the Old Board of commissioners of the South Eastern District Orleans Territory, has been made out from the field notes of Andrew McCollam and E.D. Richardson Deputy Surveyors, as follows;

Beginning at the upper front corner on the Mississippi River, run North 16½ E. 150 chs. found a Cedar post; 2.01 ch. a Similar post; at 80.00 chs. set post in cane field 12th mile 52 chs. left field and enter briars; 62.00 chs. left briars & enter clearing; 80. chs. set 2nd mile post marked a dry Sycamore; thence on 3rd mile in dry cane, high land thinly timbered with ash, oak, gum Hackberry and Sycamore; 78.72 chs. set 80 cs pens post, 3 acres chs 3rd mile post; thence on 4th mile in strong cane, very thick, timber principally Elm and Oak. 82.00 chs left cane & entered open woods, struck an old blaze 77.50 chs. came to a conle 1.50 chs. wide; 30 inches deep; 81.00 chs. set 4th mile post in low land; timber ash Oak & cypress. on 5th mile 1850 chs enter cane, 22 chs left cane and entered low land, 39.00 chs. entered cane very stiff, 59.60 chs came to Bayou conway 60.30 chs. to the opposite side, 70.00 chs enter cypress swamp; 80.00 chs. 5th mile post, on 6th mile, in swamp, 10.00 chs. enter high Palmettos, 53.39 chs. intersected the Township line. between Towns. 9 & 10 S. Range 3 E. 3.76 chs. East of the ¼ sec. post; between Sec. 18 & 36; having been shown the corner of secs. 18 19. 33 & 34, where the bearing trees were four Hollys. I returned the line at N.0.00 chs. found a Hackberry mkd. ¼ S. 80.00 chs. set 6th mile post. On the 7th mile on high land; 5.00 chs. enter cane, 19.00 chs. left cane, 30.00 chs. enter low land, 36 chs. high land 40.00 chs. low land, 52.00 chs. came to Conle 52.40 chs. opposite side, 57.00 chs. enter cane 57.72 intersected East & West lines between secs 31 & 27 - 12.24 chs. west of the corner to secs 31 & 27. 26 & 35, bearing of an Ash, an Elm, and a Hackberry 80.00 chs. set 7th mile post in cane. On the 8th mile 13.00 chs came to New River 11.30 chs. to the opposite side, 30.20 chs. came to a small bayou 30.70 chs to the opposite side 80.00 chs set 8th mile post. On the 9th mile; 11.00 chs. left Conle 8.80 chs. Briars 15.00 chs. left Briars, 25.00 chs. enter Palmettos 80.00 chs. set 9th mile post in a low place, saw several pine trees ahead. On the 10th mile; 19.00 chs. enter cane, 50.50 chs. left cane, open woods; 70.00 chs 10th mile post; on the 11th mile open woods, Timber Ash & Holly; undergrowth sweet bay & green briars. 73.28 chs. intersected the section line between sections 1 & 12. 60 links East of post. came to sections 12. 11 & 12. the bearing trees were 4 oaks; set 11th mile post at 80.00 chs. - On the 12th mile; timber Oak, ash, & pine, 77.00 chs. intersected the North Baly. line of Sec 3 R 3 following it west 25.00 chs. I found a Magnolia marked on 4 sides: I followed it some further and found no other corner 80.00 chs. set 12th mile post. On 13th mile 10.00 chs enter cane. 56.00 chs. left cane entered a conle well timbered, with cypress, 61.00 chs. left conle; entered cane, High land; timber Oak & Magnolia, 80.00 chs. set 13th mile post in cane; on 14th mile 16 chs. leave cane enter deep swamp 25.00 chs. cane. 28.00 chs. leave cane, & enter swamp from 2 to 4 feet deep, 53.50 chs. left swamp enter a point of cane, 58.00 chs. entered a bayhole. 62.00 chs enter cane & briars 80.00 chs. set 15th mile post, on the 15th Mile 35.00 chs crossed the road to Galveston. 39.60 chs. set a post on the bank of the Amite River from which bears a Sycamore 4 links W. 30 lks. mkd (S.S.P. 1854) Jan oak bears N.80 W. 66 lks. mkd (S.S.P. 1854) a Willow mkd (S.F.R. 14½ W.) bears S. 30° E.

Thence down the Amite River: S.9°E. 18.35 chs. - S.25°E. 7.50 - S.19½°E. 5.00 - S.31°E. 5.00 - S.52°E. 6.50 - S.36½°E. 15.50 - S.6½°E. 3.50 - S.77½°E. 6.50 - N.66°E. 11.00 - N.54°E. 18.50 - S.76°E. 2.50 - S.65°E. 2.50 - S.80°E. 2.50 - S.53°E. 2.50 - S.35°E. 2.00 - South 1.50 - S.60°W. 13.00 - S.5°W. 3.50 - S.26°W. 3.50 - S.8°W. 13.50 - S.11°E. 3.50 - S.40°E. 6.00 - S.61°E. 12.50 - S.41°E. 5.50 - S.81°E. 6.00 - S.54°E. 1.00 - S.63°E. 3.00 - S.56°E. 3.00 - S.28°E. 3.00 - S.56°E. 2.12 - S.11°W. 3.00 - S.19°W. 7.50 - S.42½°W. 11.00 - S.11°W. 4.50 - S.39°E. 3.50 - S.50°E. 7.00 - S.20°E. 7.50 - S.5°E. 6.00 - S.19°E. 2.50 - S.28°E. 4.00 - S.21°E. 2.00 - S.6°E. 12.00 - S.20°E. 6.00 - S.30°E. 7.00 - S.65°E. 2.00 - South. 4.50 - S.68°E. 3.50 - S.11°W. 4.50 - S.54°E. 4.50 - S.24°E. 6.00 - S.25°W. 4.50 - West 2.00 - S.39°W. 2.50 - S.6.5°W. 2.50 - S.29°W. 4.50 - S.10°W. 2.00 - South. 4.50 - S.15°E. 4.50 - S.23°E. 3.50 - S.1°W. 2.00 - S.2°E. 1.50 - S.83°E. 1.00 - S.53°E. 3.50 - S.13°E. 2.50 - N.88°E. 3.00 - S.75°E. 22.00 - S.46°E. 1.75 - S.6°E. 10.50 - S.8°E. 16.50 - South. 4.00 - S.49°W. 15.00 - S.5°E. 2.00 - S.5°E. 13.75 - S.5°E. 2.00 - S.31°E. 13.50 - S.13°E. 11.50 - S.20°E. 5.50 - S.13°E. 7.50 - S.1°E. 8.00 - S.1°E. 6.00 - S.15°E. 12.00 - S.30°E. 8.00 - S.81°E. 18.00 - S.0°E. 20.00 - N.61°E. 6.50 - East 12.00 - N.52°E. 16.00 - N.5°E. 11.50 - N.21°W. 11.00 - N.57°E. 5.00 - S.32°E. 22.00 - S.71°E. 11.50 - N.17°E. 11.00 - S.56°E. 20.20 - N.0°E. 2.50 - S.5°E. 11.50 - S.29°E. 13.00 - N.63°E. 12.00 - N.67°E. 19.50 - N.85°E. 11.50 - S.60°E. 21.75 - S.69°E. 11.50 - N.88°E. 12.00 - N.64°E. 13.00 - N.21°E. 10.50 - N.44°E. 5.00 - N.85°E. 11.50 - S.44°E. 6.00 - S.21°E. 5.50 - S.16°E. 6.00 - S.11°W. 6.00 - S.11°W. 6.00 - S.26°E. 5.15 - S.4°W. 2.00 - S.60°E. 7.50 - East. 5.00 - N.70°E. 3.50 - N.60°E. 5.00 - N.53°E. 6.75 - N.21°E. 1.00 - N.10°E. 15.00 - N.51°E. 12.00 - N.8°E. 18.00 - S.76°E. 8.00 - S.6°E. 9.00 - S.6°E. 11.00 - N. on Island N.37°E. 25.00 - N.53°W. 2.00 - N.4°W. 3.00 - N.11°W. 9.00 - N.5°W. 2.00 - N.17°E. 7.00 - N.50°E. 7.00 - N.71°E. 9.00 - N.85°E. 25.00 - N.39°E. 3.00 - N.55°E. 7.00 - N.22°E. 9.00 - N.55°E. 5.00 - N.37°E. 15.00 - S.79°E. 8.00 - S.32°E. 3.50 - S.6°E. 5.00 - S.45°E. 2.00 - East 9.00 - N.2°W. 5.00 - N.58°E. 12.00 - S.13°E. 6.00 - S.65°E. 12.00 to the foot of the Island - S.8°E. 9.00 - S.26°E. 21.00 - N.58°E. 11.00 - to a shell bank and a house - N.19°W. 25.00 - N.17°E. 9.00 - N.4°E. 11.00 - N.19°E. 7.00 - N.60°E. 11.00 - N.5°E. 10.00 - N.26°W. 11.00 - S.3°E. 6.00 - N.72°E. 11.00 - N.13°W. 12.00 - N.49°W. 6.00 - N.42°E. 12.00 - N.48°E. 10.00 - N.12½°E. 11.50 - N.8°E. 11.00 - S.4°E. 11.00 - N.45°E. 9.00 - N.26°W. 15.00 - N.79°E. 11.50 - N.44°E. 12.00 - N.78°E. 11.00 - N.11°W. 10.00 - N.4°W. 7.00 - N.50°E. 7.00 - N.3°W. 12.00 - N.40°E. 9.00 - N.80°E. 6.00 - N.53°E. 7.00 - N.9°E. 8.00 - N.18°E. 11.00 - N.65°E. 11.00 - N.18°E. 12.00 - N.80°E. 4.00 - S.6°E. 12.00 - S.4°E. 9.00 - N.86°E. 13.00 - N.58°E. 9.00 - N.7°E. 16.00 - S.61°E. 5.00 - N.82°E. 14.00 - N.75°E. 11.00 - S.37°E. 7.00 - S.20°E. 3.00 - S.4°E. 8.00 - S.11°E. 12.00 - S.70°W. 10.00 - S.73°E. 11.00 - S.33°E. 2.00 - S.5°E. 6.00 - S.65°E. 11.00 - South 12.00 - S.56°E. 11.00 - S.55°E. 17.00 - S.36°W. 6.00 - S.5°W. 5.00 - S.7°E. 22.00 - S.17°E. 9.00 - N.77½°E. 58.00 - N.20°E. 2.00 - N.65°E. 3.50 - N.35°E. 15.00 - S.59½°E. 32.00 - N.39°E. 33.00 - at 9 chs. on this course an improvement. — S.63 E. 6.00 - S.52°E. 13.00 - S.15°E. 5.00 - S.7°E. 15.00 - S.26°E. 7.00 - S.4°W. 11.00 - S.42°E. 11.00 - S.45½°E. 16.00 - N.5°E. 22.00 - N.22°E. 7.00 - N.11°E. 18.00 - East 3.00 - to Moses House on the left bank - S.16°E. 27.00 - S.5°E. 24.00 - S.30°W. 11.00 - N.75°E. 17.00 - N.23°E. 22.00 - S.11°E. 39.00 - N.85°E. 12.00 - N.60°E. 44.00 - N.51°W. 11.00 - N.6°W. 11.00 - S.89½°E. 53.00 - S.53°E. 21.00 - S.12°W. 11.00 - S.4°W. 17.00 - S.66°E. 7.00 - East. 8.00 - S.69½°E. 20.00 - South. 7.00 - N.50°E. 6.00 - N.19°E. 2.00 - N.10°W. 2.00 - N.33°E. 20.00 - S.69°E. 13.00 - S.35°E. 10.00 - to lake Maupas - Thence along the Lake - S.4°E. 11.00 - S.13°W. 13.00 - S.36°W. 55.00 - S.51°W. 11.00 - S.32°W. 26.00 - S.25°W. 12.00 - S.20°W. 16.00 - S.18°W. 37.00 - at 15.00 chs. on this course came to shell bank; S.1°W. 81.00 - S.13°E. 31.00 came shell bank, S.32½°E. 11.00 - S.53°E. 12.00 - S. on ½ 32.00 - S.26°W. 22.00 - S.4°W. 22.00 - S.26°E. 20.00 chs. S.20°W. 16.00 - S.6°W. 11.00 - S.76°W. 12.00 - S.62°W. 15.00 - to shell bank - S.50°W. 10.00 - S.19°W. 8.00 - N.60°W. 11.00 to a shell N.53°W. 6.00 - N.43°W. 7.00 - N. 52°W. 7.00 — S.76°W. 5.00 - to the mouth of Blind River, thence by the notes of C.D. Richardson S.11°W. 22.00 - across Blind River - thence with the lake S.18°E. 3.00 chs. - S.25°E. 13.00 - S.45°E. 19.00 - S.65°E. 52.00 - S.50°E. 55.00 - to a cypress tree marked for the corner thereto X & the letters M. D.B. blazed on 4 sides - being 36 inches in diameter, from which stands a cypress 110 inches diameter - S.26°E. 38 lks - and marked with a cross thereto X also a cypress 24 in diameter N. 70°W. 5 lks - and marked, as the one last described. I also took the bearing of 2 cypress trees which stand in the Lake, one of them bearing from the corner tree N. 70°E. - the other N. 5°W. Thence S. 70½°W. on the lower line, 40.50 chs to Blind River, 70.00 chs opposite side, 80.05 chs to Bayou Conway 810.30 chs to opposite side; 1396.05 chs intersected Range line between Townships 10 & 11 South, Range 3 East - 1411.80 chs enter swamp - 1511.30 cane 1459.80 chs to open swamp - 1470.80 chs leave swamp 1475.00 chs leave, swamp enter Palmetto woods - 1526.30 chs to Stiff cane - 1536.16 chs to Palmetto woods - 1569.80 chs. leave the Palmettos - 1591.80 chs to a post formerly established by C. Eminage Dep. Surveyor being the lower front corner of the 10 arpents represented in the original survey made by Lafon and filed with the commissioners descriptions of the boundaries of the claim - Thence N. 11½°W. 22.19 chs intersected the Township line between Townships 10 & 11 South Range 3 East 29.09 chs to the line run by McCollam at 116.36 chs from the Mississippi River. Thence with said line S. 70½°W. 116.36 chs to post on the bank of the River thence up the River N. 9°W. 17.56 - N. 24°W. 11.50 - N. 13°W. 5.50 - N. 22°W. 20.90 - N. 31°W. 4.50 chs to the place of beginning. Containing one hundred & twenty three Thousand Five Hundred & sixteen acres and ninety hundredths of an acre (123516.90) and having such forms and marks, natural & artificial as are represented in the above plat and description.

Surveyor Generals Office.
Baton Rouge Nov 25th 1844.

The above Diagram of the William Conway claim under the Nunnas Grant has been compiled from the field notes of the surveys thereof by Andrew McCollam & E.D. Richardson on file in this office — Examined & approved —

(Signed) F. D. Newcomb
Surv Genl La.

Surveyor Generals' Office
Donaldsonville La November 13th 1858.

A true Copy of the original Diagram now on file in this office

(Signed) Wm J. McCulloh
Surveyor General La.

Map of the claim of Wm Conway
with agreement of counsel
Filed May 14th 1882.

MAP
OF THE
CONWAY CLAIM
IN THE
SOUTH EASTERN DIST LA.

U. S. Surveyor General's Office
District of Louisiana
New Orleans January 6th 1882.

It is hereby certified that this map of the claim of William Conway Old Board Eastern District Territory of Orleans No 125. has been correctly compiled from the latest approved field notes of survey on file and of record in this office & is hereby approved.

Jacques Abbadie
Surveyor General La.

DANIEL CLARK
OLD BOARD. Report No 127.
351 ARPS.
Mms. Glichr

WILLIAM CONWAY

T.10 S-R.3 E.
T.10 S-R.4 E.
T.10 S-R.5 E.
T.10 S-R.6 E.
T. 9 S-R. 3 E.
T. 9 S-R. 4 E.
T. 9 S-R. 5 E.
T. 9 S-R. 6 E.

MISSISSIPPI RIVER
BAYOU CONWAY
NEW RIVER
CANE
PINE RIDGE
MARSH
BEAR ISLAND
MAUPEAS

LINE RUN BY A. McCOLLAM D.S. N 78° 15' E. 490.20 — N 78° 15' E. 490.20
LINE OF THE CLAIM OF WILLIAM CONWAY O.B. Nº 125

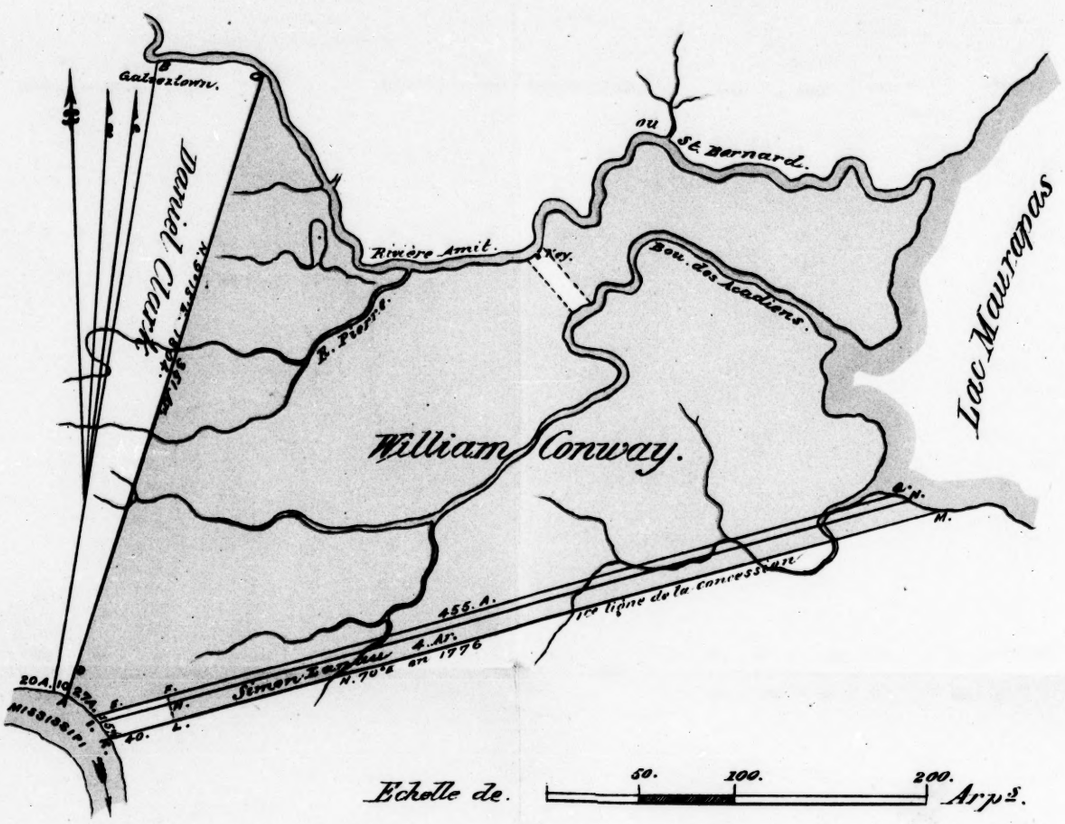
455 ARPS
16 Mms 54 Clchs

It was agreed by the parties to this suit that the dotted line AB on this plan, together with the words & figures at the end thereof to wit "357 acres 1 Rood 6 Perches" and "455 arpts 6 Mms 6 Clchs" and "455 arpts 6 mms 44 Clchs" have been placed thereon after the approval thereof by the Surveyor General & that the points A & B at the terminations as the same may be are respectively 357 & 455 lineal arpens distant from the Mississippi river as measured & represented by protraction in the absence of actual measurement on the ground.

Signed J. L. Bradford
Counsel for Complts.
Signed Monet & Grant
for Defendants their representatives.

3

Conté de la Cote d'Acadie.



No. 903.
Slidell et al
v.
Richardson,
Register &c.
} page 287.

MAP
OF THE
CONWAY CLAIM
IN THE
SOUTH EASTERN DIST. LA.

U. S. Surveyor Generals Office
District of Louisiana
New Orleans January 6th 1852.

It is hereby certified that this map of the claim of William Conway Old Board Eastern District Territory of Orleans No 125. has been correctly compiled from the latest approved field notes of survey on file and of record in this office & is hereby approved

Jacques Tilla
Surveyor General La.

ARK OLD BOARD. Report No 127. ..... 351 Arpts 2

DANIEL CLAIM

WILLIAM CONWAY

T. 9 S. R. 3 E.

T. 9 S-R. 4 E.

T. 9 S-R. 5 E.

T. 9 S-R. 6 E.

T. 10 S-R. 3 E.

T. 10 S-R. 4 E.

T. 10 S-R. 5 E.

T. 10 S-R. 6 E.

OLD BOARD

BAYOU CONWAY

NEW RIVER

CANE

PINE RIDGE

MARSH

PEARL ISLAND

MISSISSIPPI RIVER

LINE RUN BY A. McCOLLAM D.S. N 78° 15' E. 490.30

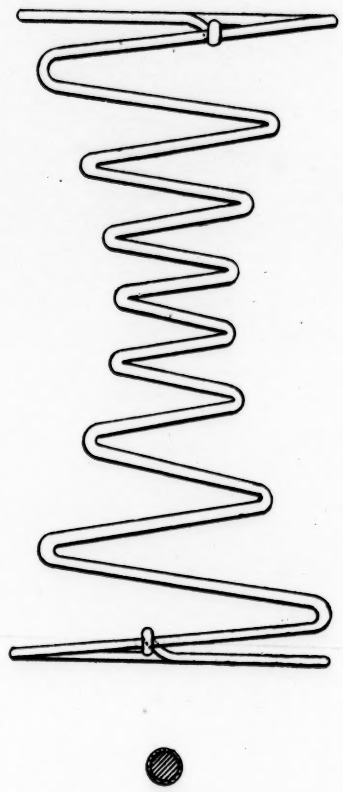
LINE OF THE CLAIM OF WILLIAM CONWAY O.B. No 125 N 78° 15' E. 490.30

455 links
16 mg
Ch.

J. J. Eagleton,

Furniture Spring.

No. 122,001. Patented Dec. 19, 1871.



Witnesses.
Wm a Morgan
G b Scotton

Inventor.
J. J. Eagleton
per Munn & Co
Attorneys